

Emergency Rule
LSA Document #11-156(E)

DIGEST

Amends [750 IAC 9-3-1](#) concerning the effective date for individuals acting exclusively as servicers engaging in loss mitigation efforts to meet the education, testing, background, and licensing standards. Effective March 17, 2011.

[750 IAC 9-3-1](#)

SECTION 1. [750 IAC 9-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[750 IAC 9-3-1](#) Licensing of mortgage loan originators

Authority: [IC 24-4.4-1-101](#)

Affected: [IC 24-4.4](#); [IC 24-4.5](#)

Sec. 1. (a) Except as provided in [750 IAC 9-2-5](#)(5) and subsections (b), (h), and (i), after June 30, 2010, an individual may not engage in the business of a mortgage loan originator without obtaining a mortgage loan originator license issued by the department under this article and annually maintaining the license.

(b) Notwithstanding the licensing requirements under this section, an individual acting exclusively as a servicer engaging in loss mitigation efforts with respect to an existing mortgage transaction is not required to meet the education, testing, background, and licensing standards of this article until ~~July 1, 2011~~, **July 1, 2012**, to the extent that this extension of time is not denied by any guideline, rule, regulation, or interpretive letter issued by the United States Department of Housing and Urban Development.

(c) Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the NMLSR. Notwithstanding subsection (g), each licensed mortgage loan originator must be employed by either a licensed creditor or an entity exempt from licensing under [IC 24-4.4](#) or [IC 24-4.5](#), that is registered with the NMLSR, in order to originate loans.

(d) Applicants for a license must apply for a license under this article in a form prescribed by the director. Each form:

- (1) must contain content as set forth by rule, instruction, or procedure of the director; and
- (2) may be changed or updated as necessary by the director in order to carry out the purposes of this article.

(e) To fulfill the purposes of this article, the director may establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to:

- (1) collect and maintain records; and
- (2) process transaction fees or other fees related to licensees or other persons subject to this article.

(f) For the purpose of participating in the NMLSR, the director may:

- (1) waive or modify, in whole or in part, by order, policy, or guidance, any or all of the requirements of this article; and
- (2) establish new requirements as reasonably necessary to participate in the NMLSR.

(g) A loan processor or underwriter who is not an employee of a person licensed or exempt from licensing under [IC 24-4.4](#) or [IC 24-4.5](#) may not engage in residential mortgage loan originator activities as a loan processor or underwriter unless such person obtains and maintains both a license under this section and a valid unique identifier issued by the NMLSR.

(h) Notwithstanding the licensing requirements under this section, an individual acting exclusively as a housing counselor engaging in efforts to assist borrowers with respect to an existing mortgage transaction who is:

- (1) employed by a bona fide not for profit entity that does not operate in a commercial context, as determined by the director, and that is certified by the United States Department of Housing and Urban Development; or
- (2) a housing counselor certified by the Indiana housing and community development authority, or a housing counselor who is employed by an entity approved as an Indiana Foreclosure Prevention Network Agency by the Indiana housing and community development authority that is deemed by the director to be a bona fide not for profit entity that does not operate in a commercial context;

is not required to meet the education, testing, background, and licensing standards of this article unless this exclusion is denied by any guideline, rule, regulation, or interpretive letter issued by the United States Department of Housing and Urban Development.

(i) Notwithstanding the licensing requirements under this section, an individual who exclusively originates zero-interest loans and is employed by a bona fide not for profit entity that does not operate in a commercial context, as determined by the director, is not required to meet the education, testing, background, and licensing standards of this article unless this exclusion is denied by any guideline, rule, regulation, or interpretive letter issued by the United States Department of Housing and Urban Development.

(Department of Financial Institutions; [750 IAC 9-3-1](#); emergency rule filed Jul 23, 2009, 4:14 p.m.: [20090729-IR-750090577ERA](#); emergency rule filed Nov 16, 2009, 2:13 p.m.: [20091125-IR-750090917ERA](#); emergency rule filed Feb 11, 2010, 2:49 p.m.: [20100217-IR-750100102ERA](#); emergency rule filed Jun 24, 2010, 2:45 p.m.: [20100707-IR-750100423ERA](#); emergency rule filed Mar 17, 2011, 1:54 p.m.: [20110323-IR-750110156ERA](#))

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